

AO 187 (Rev. 7/87) Exhibit and Witness List

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DENNIS COOK, ,

Plaintiff

**EXHIBIT LIST - DEFENDANT, CITY OF
NORWOOD**

v.

CASE NO. C-1-02 00073**CITY OF NORWOOD, et al.,**

Defendant

Presiding Judge

Herman J. Weber, Senior Judge

Plaintiff Attorney

Robert Kelly

Defendant Attorney

Lawrence E. Barbieri (Defendant City of Norwood)

W. McGregor Dixon, Jr. (Defendant Hochbein)

James F. Brockman (Defendant Cross)

Steven Martin (Defendant Hubbard)

Hearing Dates

Court Reporter

Julie A. Wolfer

Courtroom Clerk

Betsi Brockmeier

Pltf. No.	Deft. No.	Date Used	Date Offered	Obj.	Adm.	Description of Exhibit
	501					Ohio Commercial Driver License issued to Plaintiff March 31, 1994 with the restriction "No Passenger-Class A".
	502					Memo from Gary Hubbard to Plaintiff dated April 22, 1996 regarding Plaintiff's wife contacting Hubbard's wife.
	503	11/15			X	Letter from William J. Miller, Director of Safety for the City, to Plaintiff dated April 29, 1996 instructing him to report to Dr. Monica Jackson, Daum & Associates, for a psychological examination.
	504	11/12			X	Letter from Miller to Dr. Jackson dated May 1, 1996 regarding Plaintiff's behavior and questions regarding the effects of the medications taken by Plaintiff.
	505	11/4			X	Letter from Miller to Dr. John Scroder dated May 1, 1996 requesting a medical exam of Plaintiff and answers to questions regarding medications being taken by Plaintiff.

Pltf. No.	Deft. No.	Date Used	Date Offered	Obj.	Adm.	Description of Exhibit
	506	11/15			X	Letter from Miller to Kim Ford in Auditor's Office dated May 1, 1996 notifying her of suspension with pay of Plaintiff effective April 23, 1996 pending completion of psychological and physical examinations and clearance to return to work.
	507	11/4			X	Fitness for Duty Evaluation of Plaintiff by Dr. Jackson dated 4/30 and 5/2/96.
	508					Records of Daum & Associates.
	509	11/15			X	Letter from Miller to Plaintiff dated May 10, 1996 requesting Plaintiff report with his representative regarding Plaintiff's duty status.
	510					Memo from Miller to Plaintiff dated May 13, 1996 advising that psychological exam determined Plaintiff should not return to work until therapy program completed and Dr. Jackson releases him to return to work.
	511	11/2	11/17	X	X	Letter from Hubbard to Dr. Jackson dated May 14, 1996 advising of conduct of Plaintiff's daughter in response to Plaintiff's suspension pending completion of therapy program and reevaluation by Dr. Jackson.
	512		11/17		X	Memo from Miller posted at Public Works dated May 14, 1996 advising that Plaintiff was not terminated, but that he is on medical leave until completion of therapy.
	513					Letter from Miller to Dr. David Helm, M.D., dated May 14, 1996 advising Helm of Dr. Jackson's recommendation.
	514	11/15			X	Letter from Hubbard to Walter J. Edwards, AFSCME-Ohio Council 8, dated June 26, 1996 regarding grievances and advising that Andy Stapleton is better qualified to operate the backhoe.
	515	11/15			X	Settlement Agreement dated July 12, 1996 wherein Plaintiff releases any claims "connected with his suspension in 1996 and or his medical evaluations."
	516					Letter from Edwards to Plaintiff dated November 6, 1996 instructing Plaintiff not to pursue frivolous grievances.
	517	11/8			X	Letter from Hubbard to Kevin Cross dated March 18, 1997 advising that there is no "light duty."

Pltf. No.	Deft. No.	Date Used	Date Offered	Obj.	Adm.	Description of Exhibit
	518	11/2			X	An Agreement and Release between Plaintiff and the City of Norwood dated March 18, 1997 wherein Plaintiff "agrees that he is not entitled to operate the backhoe."
	519					Letter from Hubbard to Cross dated April 21, 1997 instructing street sweeper to run earlier to avoid backup caused during morning rush hour.
	520					Letter to Plaintiff from Cross dated July 25, 1997 notifying him of a disciplinary hearing for giving a child a ride on the City's street sweeper.
	521	11/8			X	Letter from Cross to Plaintiff dated July 30, 1997 providing written warning for riding a non-employee on City equipment.
	522					Letter from Cross to Ray Erwin dated September 25, 1997 regarding 1997-98 snow removal.
	523	11/9			X	Letter from Hubbard to Erwin dated October 31, 1997 advising not to use City time for preparation of grievances or other Union matters.
	524					Letter from Hubbard to Erwin dated December 5, 1997 regarding snow overtime list.
	525	11/9			X	Grievance No. 12324 dated December 15, 1997 grieving change from weekly to bi-weekly pay period.
	526	11/9			X	Grievance No. 12325 dated December 17, 1997 grieving denial of leave to attend SERB seminar.
	527	11/9			X	Grievance No. 12326 dated December 17, 1997 grieving labor-management meeting held on December 5, 1997 without all three representatives present.
	528					Letter from Hubbard to Erwin dated December 18, 1997 responding to Grievance No. 12325.
	529					Grievance No. 12323 dated December 18, 1997 regarding salt truck overtime.
	530					Letter from Hubbard to Erwin dated December 18, 1997 denying Grievance No. 12323.
	531	11/9	?		X	Grievance No. 12328 dated January 2, 1998 grieving harassment and discrimination.

Pltf. No.	Def't. No.	Date Used	Date Offered	Obj.	Adm.	Description of Exhibit
	532					Letter from Hubbard to Erwin dated January 6, 1998 responding to Grievance No. 12325.
	533	11/9			X	Letter from Erwin to Local 914 dated February 19, 1998 instructing members to ignore notice of meeting for February 20, 1998 at Public Works.
	534					Ohio Commercial Driver License issued to Plaintiff on February 23, 1998 restricting Plaintiff to "Veh's. W/O Air Brakes-CDL".
	535	11/15			X	Letter from AFSCME-Ohio Council 8 to Plaintiff dated February 3, 1998 regarding number of frivolous grievances being filed by Local 914.
	536	11/9			X	Letter from Plaintiff to Gerald W. McEntee, International President of AFSCME, dated February 25, 1998 complaining about Edwards.
	537					Letter from Joseph Hochbein to Erwin dated March 12, 1998 denying Grievance No. 12324.
	538					Letter from Paul J. Bazzano to Erwin dated March 17, 1998 finding no insubordination for posting of letter to Local 914 on February 19, 1998.
	539					Letter to Erwin from Cross dated March 24, 1998 regarding Leadmen responsibilities.
	540					Letter to Plaintiff from Cross dated March 24, 1998 regarding Leadmen responsibilities.
	541					Memo from Cross to Plaintiff dated March 24, 1998 regarding daily operations as Acting Leadman of Street Department.
	542					Letter dated March 25, 1998 from Plaintiff to Edwards charging Edwards with being inept.
	543					Letter dated March 27, 1998 from Plaintiff to Edwards duplicating March 25, 1998 letter with additional individuals carbon copied.
	544					Letter from Joseph T. Mordino, Assistant Law Director, to Union dated March 31, 1998 regarding flurry of grievances.
	545					Letter from Cross to Plaintiff dated April 3, 1998 concerning getting hot patching done early in day.
	546	11/2			X	Letter from Cross to Plaintiff dated April 6, 1998 regarding truck parked the wrong way with keys in the ignition.

Pltf. No.	Deft. No.	Date Used	Date Offered	Obj.	Adm.	Description of Exhibit
	547	11/15			X	Letter from Hubbard to Cross dated April 13, 1998 regarding Plaintiff using jackhammer near gas line.
	548					Letter from Hubbard to Cross dated April 13, 1998 concerning removal of Plaintiff as Leadman based on Plaintiff's inability to operate the backhoe.
	549					Letter from Hubbard to Erwin dated April 16, 1998 regarding Plaintiff stamping envelopes received.
	550	11/15			X	Grievance No. 12340 dated April 17, 1998 grieving denial of position of Leadman of Street Crew.
	551				X	Letter dated April 20, 1998 from Tom White to Erwin resigning as Vice-President of Local 914.
	552	11/4			X	Unfair Labor Practice Charge 98-ULP-05-0212 filed by Plaintiff on May 4, 1998 regarding denial of Leadman position due to union activities.
	553	11/4			X	EEOC Charge Number 221980645 filed May 15, 1998.
	554	11/4			X	Letter from Hubbard to Cross dated May 20, 1998 advising that Plaintiff's CDL has a restriction prohibiting operation of vehicles with air brakes and instructing that Plaintiff be removed from operation of street sweeper with air brakes.
	555					Ohio Commercial Driver License issued to Plaintiff on May 27, 1998 with restriction "No Passenger-Class A".
	556	11/4			X	EEOC Charge Number 221980717 filed June 16, 1998.
	557	11/4			X	EEOC Amended Charge Number 221980645 filed June 16, 1998.
	558	11/4			X	Letter from Hubbard to Plaintiff dated July 2, 1998 regarding Plaintiff refusing to operate jackhammer and claiming sick leave to avoid it.
	559					Report by J. Nick Marzella, Ph.D. to Hubbard dated July 16, 1998.
	560	11/15			X	Grievance No. 5149 dated July 22, 1998 grieving examination on July 15, 1998.

Pltf. No.	Def. No.	Date Used	Date Offered	Obj.	Adm.	Description of Exhibit
	561	"1/4			X	Letter from Hubbard to Plaintiff dated July 22, 1998 removing driving privileges pending evaluation of current medications.
	562	"1/4			X	Letter from Hubbard to Plaintiff dated July 28, 1998 regarding Plaintiff shoveling hot asphalt while wearing rubber boots.
	563					Unfair Labor Practice Charge, 98-ULP-08-0452, dated July 31, 1998, alleging removal from position as street sweeper operator on May 20, 1998.
	564	"1/4	"1/17		X	Memo from Hubbard to Cross dated July 22, 1998 instructing removal of Plaintiff from driving status of City vehicles due to prescribed medications.
	565	"1/4			X	Memo to Plaintiff from Cross dated July 30, 1998 regarding Plaintiff saw cutting without his mask.
	566	"1/15			X	Grievance Report No. 5151 dated July 31, 1998.
	567					Letter from Cross to Joe Lacinak, Union Steward, dated July 31, 1998.
	568					Grievance NO. 5195 dated August 2, 1998 grieving removal from position of street sweeper operator.
	569					Letter from Hubbard to Cross dated August 3, 1998 regarding lack of signage.
	570	"1/2			X	Letter from Cross to Plaintiff dated August 14, 1998 regarding placing Plaintiff on administrative leave pursuant to Fitness for Duty Evaluation of Dr. Marzella.
	571	"1/17			X	Fitness for Duty Evaluation of Plaintiff by Marzella dated August 17, 1998.
	572					Letter from Mordino to Holly M. Levine, SERB, dated September 8, 1998 responding to Plaintiff's ULP Charge No. 98-ULP-08-0452 explaining Plaintiff's removal from street sweeper operation.
	573					Letter from Cross to Plaintiff dated September 14, 1998 regarding no disciplinary hearing on signage failure.
	574					Letter from Cross to Plaintiff dated November 6, 1998 regarding need for a medical excuse for bathroom breaks.

Pltf. No.	Deft. No.	Date Used	Date Offered	Obj.	Adm.	Description of Exhibit
	575					Grievance No. 1087 dated November 6, 1998 grieving removal as street sweeper operator because of prior grievances.
	576					Unfair Labor Practice Charge No. 98-ULP-11-0658 dated November 6, 1998.
	577					Letter from Hubbard to Dr. Bingham dated November 11, 1998 requesting opinion regarding effect of medications on Plaintiff's ability to operate heavy equipment.
	578					Letter from Hubbard to Plaintiff dated November 13, 1998 requiring Plaintiff to report to Dr. Bingham on November 13, 1998.
	579	11/8			X	Letter from Dr. Bingham to Hubbard dated November 16, 1998 regarding examination of Plaintiff.
	580					Letter from Timothy A. Garry, Jr., City Law Director, to Jack Patrick, EEOC, dated November 20, 1998 explaining reason for Plaintiff's removal from street sweeper with air brakes.
	581					Letter from Cross to Rusty Vanover, Union Steward, dated November 30, 1998 explaining Plaintiff's removal from operation of street sweeper.
	582					Unfair Labor Practice Charge No. 99-ULP-01-0039 filed on January 26, 1999.
	583					Letter from Stacy M. Wall, Assistant Law Director, to Holly Levine, SERB, dated February 16, 1999, summarizing events in response to Plaintiff filing 98-ULP-11-0658.
	584					Letter from Wall to Gary Kennedy, SERB, dated February 18, 1999, summarizing events in response to Plaintiff filing 99-ULP-01-0039.
	585	11/5			X	Certified copy of Plaintiff's Complaint against Union, <u>Plaintiff v. AFSCME, Ohio Council 8</u> , C-1-99-801, filed September 28, 1999.
	586					Certified copy of Order Granting in Part and Denying in Part Defendant's Motion to Dismiss.
	587					Report for BWC of Merritt S. Oleski, Ph.D. dated October 24, 2000.
	588					All records produced by Group Health Associates. See Plaintiff's Exhibit P01105

Pltf. No.	Deft. No.	Date Used	Date Offered	Obj.	Adm.	Description of Exhibit
	589	11/4			X	Certified copy of Group Health Associates medical records of Plaintiff obtained as a result of the April 15, 2004 records deposition from medical records custodian, Charmaine Siegel.
	589a				X	Mental Health Notes, dated October 26, 1994, reports severe long term mental dysfunction.
	589b					Progress Note, dated November 30, 1994, diagnosis: Adjustment disorder.
	589c					Progress Note, dated December 28, 1994, diagnosis: Adjustment disorder.
	589d					Progress Note, dated March 8, 1995, diagnosis: Adjustment disorder, Depressed mood.
	589e					Mental Health Notes, dated September 13, 1995, very serious mental problems exacerbating patient's depression, homicidal and suicidal ideations.
	589f					Progress Note, dated April 7, 1995, Plaintiff has propensity for volatile reactivity.
	589g					Progress Note, dated May 25, 1995, diagnosis: Cyclothymia.
	589h					Handwritten note, dated September 28, 1995, son in trouble with the law, slapped 18 year old daughter on head, having bad headaches, wife called police.
	589i	<i>as redacted</i>				Progress Note, dated September 28, 1995, Continuing conflict with wife, uncertain about their future.
	589j					Progress Note, dated November 30, 1995, diagnosis: Cyclothymia.
	589k					Progress Note, dated December 26, 1995, diagnosis: Cyclothymia.
	589l					Progress Note, dated May 14, 1996, diagnosis: Cyclothymia.
	589m					Progress Note, dated May 16, 1996, did make statement that he hoped lightning would strike Mr. Hubbard.
	589n					Daum & Associates Fitness for Duty Evaluation of Plaintiff, evaluation of April 30, 1996 and May 2, 1996; Plaintiff is psychologically unfit for duty.
	589o				↓	Progress Note, dated July 31, 1996, diagnosis: Cyclothymia.

Pltf. No.	Deft. No.	Date Used	Date Offered	Obj.	Adm.	Description of Exhibit
	589p				X	Progress Note, dated October 9, 1996, diagnosis: Bipolar-II.
	589q				↓	Progress Note, dated May 15, 1997, too upset to go to work because of fight with wife, couldn't function feeling this upset.
	589r				↓	
	590		11/17		X	Certified copy of PERS file
	590a					Letter from Maurice C. Mast dated October 25, 1999 recommending Plaintiff's disability claim based upon physical condition be denied.
	590b					Letter from Dr. Arnold R. Penix, M.D., to PERS dated November 12, 1999 opining that Plaintiff is permanently and totally disabled due to his medical condition.
	590c					Letter from Dr. William Beatty to PERS dated February 2, 2000 finding Plaintiff permanently disabled due to his mental condition.
	590d					Letter from John Finfgeld, PERS to Plaintiff dated February 23, 2000 advising approval of disability application.
	590e					Letter from PERS to Plaintiff dated May 31, 2000 regarding disability and retirement benefits.
	591					Documents from Deposition of David A. Helm, M.D.
	591a					Diagnosis of Plaintiff as Bipolar II dated October 26, 1999.
	591b					Records from Health Maintenance Plan, predecessor of Group Health Associates.
	591c					Letter from Dr. Theodor Bonstedt to Plaintiff dated October 1, 1984 regarding his failure to appear for appointments and terminating his psychiatric care as of October 31, 1984.
	591d					PERS form completed December 15, 2001.
	591e	11/10			X	Handwritten records.
	592					Letter to Attorney Robert Kelly dated July 19, 1999.
	593					Letter to Attorney Robert Kelly dated September 11, 1998
	594					CV of Dr. Nick Marzella

Pltf. No.	Deft. No.	Date Used	Date Offered	Obj.	Adm.	Description of Exhibit
	595					Report of Dr. Nick Marzella
	596					CV of Dr. Jennifer Stoeckel
	597					Report of Dr. Jennifer Stoeckel
	598					CV of E. Don Nelson, Pharm. D.
	599					Report of E. Don Nelson, Pharm. D.
	600					BWC Order, dated July 12, 1999, allowing claim for sprain of neck.
	601					Ohio Industrial Commission Record of Proceedings, dated December 14, 1999, upholding decision allowing claim of Cervical strain, Aggravation of pre-existing cervical degenerative disc disease.
	602					Motion of Plaintiff to BWC to allow additional conditions of Severe depression and Bi-polar disorder.
	603					Letter from BWC to Plaintiff, dated August 9, 2000, requesting additional information regarding claim amendment.
	604					Ohio Industrial Commission Record of Proceedings, dated December 22, 2000, Plaintiff has reached maximum medical improvement, terminate temporary total disability compensation.
	605					Roster of City of Norwood employees for the year 1996.
	606					Roster of City of Norwood employees for the year 1997.
	607					Roster of City of Norwood employees for the year 1998.
	608					Roster of City of Norwood employees for the year 2003.
	609				X	CTR. DATED 7/7/00 FROM HUBBARD TO DR. MARZELLA

	601					Ohio Industrial Commission Record of Proceedings, dated December 14, 1999, upholding decision allowing claim of Cervical strain, Aggravation of pre-existing cervical degenerative disc disease.
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	607					Roster of City of Norwood employees for the year 1998.
	608					Roster of City of Norwood employees for the year 2003.
	610	11/15			X	Certified copy of State Court action in Cook v. Norwood, et al , filed on 8/2/2000 and still pending.
	611	11/15			X	Compilation of grievances filed by Dennis Cook made from exhibit books.
	612	11/15			X	Compilation of PERS documents re: disability benefits taken from exhibit books.
	613	11/15			X	Compilation of medical reports from Plaintiff's Exhibits 1105, 1129 and 1125.
	614					Letter from Plaintiff to Walter Edwards dated 2/13/98.
	615	11/15			X	Compilation of Unfair Labor Practice charges filed by Dennis Cook.
	616	WITHDRAWN				5/20/98 letter from Gary Hubbard.

589 R

X

Progress notes from Dr. Helm
dated 6/11/97 and 9/10/97

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	589R					Progress Notes from Dr. Helm dated 6/11/97 and 9/10/97
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